



Information Security Oversight Office
Washington, DC 20405

November 20, 1986

Dear Mr. Donnelly:

The Information Security Oversight Office (ISOO) has issued Standard Form (SF) 189-A, "Classified Information Nondisclosure Agreement (Industrial/Commercial/Non-Government)." This form is an alternative nondisclosure agreement that Government contractor, licensee, and grantee employees, or other non-Government personnel may sign as an alternative to the existing SF 189, "Classified Information Nondisclosure Agreement." Government employees are still required to execute the SF 189 as a condition of access to classified information.

The Department of Defense, and particularly the Defense Investigative Service, recommended the development of this form to meet the needs of executive branch agencies engaged in relationships with contractor, licensee, and grantee employees or other non-Government personnel requiring access to classified information in the performance of their duties. The development of the SF 189-A was coordinated with those agencies that will be primarily affected. The form was also reviewed by the Department of Justice, which determined that the SF 189-A is an enforceable document in possible civil actions brought by the United States, and a suitable alternative to the SF 189 for non-Government personnel only.

To allow user agencies to become familiar with the new form immediately after publication, ISOO had a small stock printed. We enclose 50 copies of the SF 189-A and of the final rule that implements its use. This mailing exhausts our stock. All future

orders must go through regular channels. If you have any questions concerning the use of the SF 189-A that are not addressed in the final rule, please contact me or your ISOO liaison as quickly as possible.

Sincerely,


Steven Garfinkel
Director

Mr. William F. Donnelly
Deputy Director for Administration
Central Intelligence Agency
Washington, DC 20505

Enclosures

Declassified
in Part
Sanitized
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Friday
November 7, 1986

Part IV

**Information Security
Oversight Office**

32 CFR Part 2003

**National Security Information; Standard
Forms; Final Rule**

INFORMATION SECURITY OVERSIGHT OFFICE

32 CFR Part 2003

National Security Information; Standard Forms

AGENCY: Information Security Oversight Office (ISOO).

ACTION: Final rule.

SUMMARY: This amendment to 32 CFR Part 2003 provides for the use of an alternative Classified Information Nondisclosure Agreement to be executed by non-Government personnel as a condition of access to classified information. It also updates other provisions on the use of the nondisclosure agreements.

EFFECTIVE DATE: November 7, 1986.

FOR FURTHER INFORMATION CONTACT: Steven Garfinkel, Director, ISOO. Telephone: (202) 535-7251.

SUPPLEMENTARY INFORMATION: This amendment to 32 CFR Part 2003 is issued pursuant to section 5.2(b)(7) of Executive Order 12356. ISOO has coordinated this amendment with those agencies that will be primarily affected by it.

List of Subjects in 32 CFR Part 2003

Classified information, Executive orders, Information, National security information, Security information.

32 CFR Part 2003 is amended as follows:

PART 2003—NATIONAL SECURITY INFORMATION—STANDARD FORMS

1. The authority citation for 32 CFR Part 2003 continues to read:

Authority: Sec. 5.2(b)(7) of E.O. 12356.

Subpart A—General Provisions

2. Section 2003.3 is revised to read as follows:

§ 2003.3 Waivers.

Except as specifically provided, waivers from the mandatory use of the standard forms prescribed in Subpart B may be granted only by the Director of ISOO. The Director of ISOO will be

responsible for ensuring that all waivers that necessitate changes to a standard form are cleared with the General Services Administration's Information Resources Management Service (41 CFR 201-45.5).

Subpart B—Prescribed Forms

3. Section 2003.20 is revised to read as follows:

§ 2003.20 Classified Information Nondisclosure Agreement: SF 189; Classified Information Nondisclosure Agreement (Industrial/Commercial/Non-Government): SF 189-A.

(a) SF 189 and SF 189-A are nondisclosure agreements between the United States and an individual. An individual is to execute either the SF 189 or the SF 189-A, as appropriate, before the United States Government may authorize that individual access to classified information.

(b) All employees of executive branch departments, and independent agencies or offices must sign SF 189 before being authorized access to classified information.

(c) All Government contractor, licensee, and grantee employees, or other non-Government personnel requiring access to classified information in the performance of their duties, must sign either SF 189 or SF 189-A before being authorized access to classified information.

(d) Agencies may require other persons, who are not included under paragraph (b) or (c) of this section, to execute SF 189 or SF 189-A before receiving access to classified information.

(e) Only the National Security Council may grant a waiver from the use of SF 189 or SF 189-A. To apply for a waiver, an agency must submit its proposed alternative nondisclosure agreement to the Director of ISOO, along with a justification for its use. The Director of ISOO will request a determination about the alternative agreement's enforceability from the Department of Justice prior to making a recommendation to the National Security Council. An agency that has received a waiver from the use of SF 189 need not seek a waiver from the use of

SF 189-A, if the employees of its contractors, licensees and grantees, and other non-Government personnel are required to sign a nondisclosure agreement identical or comparable to the agreement for which a waiver has been granted. (Also see 32 CFR 2003.3 and 41 CFR 201-45.5.)

(f) Each agency must retain its executed copies of SF 189 and SF 189-A in file systems from which the agreements can be expeditiously retrieved in the event that the United States must seek their enforcement. The copies or legally enforceable facsimiles of them must be retained for 50 years following their date of execution. An agency may permit its contractors, licensees and grantees to retain the executed agreements of their employees during the time of employment. Upon the termination of employment, the contractor, licensee or grantee shall deliver the SF 189 or SF 189-A of that employee to the Government agency primarily responsible for his or her classified work.

(g) An authorized representative of a contractor, licensee, grantee, or other non-Government organization, acting on behalf of the United States, may witness the execution of SF 189 or SF 189-A by another non-Government employee, provided that an authorized United States Government official subsequently accepts by signature the SF 189 or SF 189-A on behalf of the United States. Also, an employee of a United States agency may witness the execution of the SF 189 or SF 189-A by an employee, contractor, licensee or grantee of another United States agency, provided that an authorized United States Government official subsequently accepts by signature the SF 189 or SF 189-A on behalf of the United States.

(h) The national stock number for the SF 189 is 7540-01 161-1869. The national stock number for the SF 189-A is 7540-01-237-2597.

Dated: November 4, 1986.

Steven Garfinkel,

Director, Information, Security Oversight Office

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